

be found on table 2, except as provided in paragraph (f) of this section.

(f) If the State's current collections performance level for a fiscal year is less than 40 percent but exceeds the current collections performance level of the State for the immediately preceding fiscal year by at least 5 percentage points, then the State's applicable percentage is 50 percent.

(g) A State's arrearage collections performance level for a fiscal year is equal to the total number of IV-D cases in which payments of past-due child support were received and distributed during the fiscal year, divided by the total number of IV-D cases in which there was past-due child support owed, as determined under §§305.2 and 305.32 of this part. The applicable percentage with respect to a State's arrearage collections performance level can be found on table 2 except as provided in paragraph (h) of this section.

(h) If the State's arrearage collections performance level for a fiscal year is less than 40 percent but exceeds the arrearage collections performance level for the immediately preceding fiscal year by at least 5 percentage points, then the State's applicable percentage is 50 percent.

TABLE 2—IF THE CURRENT COLLECTIONS OR ARREARAGE COLLECTIONS PERFORMANCE LEVEL IS:

(Use this table to determine the percentage levels for the current collections and arrearage collections performance measures.)

At least (percent)	But less than: (percent)	The appli- cable per- centage is: (percent)
80	80	100
79	79	98
78	78	96
77	77	94
76	76	92
75	75	90
74	74	88
73	73	86
72	72	84
71	71	82
70	70	80
69	69	79
68	68	78
67	67	77
66	66	76
65	65	75
64	64	74
63	63	73
62	62	72
61	61	71
60	60	70

TABLE 2—IF THE CURRENT COLLECTIONS OR ARREARAGE COLLECTIONS PERFORMANCE LEVEL IS:—Continued

(Use this table to determine the percentage levels for the current collections and arrearage collections performance measures.)

At least (percent)	But less than: (percent)	The appli- cable per- centage is: (percent)
59	60	69
58	59	68
57	58	67
56	57	66
55	56	65
54	55	64
53	54	63
52	53	62
51	52	61
50	51	60
49	50	59
48	49	58
47	48	57
46	47	56
45	46	55
44	45	54
43	44	53
42	43	52
41	42	51
40	41	50
0	40	0

(i) A State's cost-effectiveness performance level for a fiscal year is equal to the total amount of IV-D support collected and disbursed or retained, as applicable during the fiscal year, divided by the total amount expended during the fiscal year, as determined under §§305.2 and 305.32 of this part. The applicable percentage with respect to a State's cost-effectiveness performance level can be found on table 3.

TABLE 3—IF THE COST-EFFECTIVENESS PERFORMANCE LEVEL IS:

(Use this table to determine the percentage level for the cost-effectiveness performance measure.)

At least:	But less than:	The app. % is
5.00	100
4.50	4.99	90
4.00	4.50	80
3.50	4.00	70
3.00	3.50	60
2.50	3.00	50
2.00	2.50	40
0.00	2.00	0

§ 305.34 Payment of incentives.

(a) Each State must report one-fourth of its estimated annual incentive payment on each of its four quarterly collections' reports for a fiscal year. When combined with the amounts

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claimed on each of the State's four quarterly expenditure reports, the portion of the annual estimated incentive payment as reported each quarter will be included in the calculation of the next quarterly grant awarded to the State under title IV-D of the Act.

(b) Following the end of each fiscal year, HHS will calculate the State's annual incentive payment, using the actual collection and expenditure data and the performance data submitted by December 31st by the State and other States for that fiscal year. A positive or negative grant will then be awarded to the State under title IV-D of the Act to reconcile an actual annual incentive payment that has been calculated to be greater or lesser, respectively, than the annual incentive payment estimated prior to the beginning of the fiscal year.

(c) Payment of incentives is contingent on a State's data being determined complete and reliable by Federal auditors.

§ 305.35 Reinvestment.

(a) A State must expend the full amount of incentive payments received under this part to supplement, and not supplant, other funds used by the State to carry out IV-D program activities or funds for other activities approved by the Secretary which may contribute to improving the effectiveness or efficiency of the State's IV-D program, including cost-effective contracts with local agencies, whether or not the expenditures for the activity are eligible for reimbursement under this part.

(b) In those States in which incentive payments are passed through to political subdivisions or localities, such payments must be used in accordance with this section.

(c) State IV-D expenditures may not be reduced as a result of the receipt and reinvestment of incentive payments.

(d) A base amount will be determined by subtracting the amount of incentive funds received and reinvested in the State IV-D program for fiscal year 1998 from the total amount expended by the State in the IV-D program during the same period. Alternatively, States have an option of using the average amount of the previous three fiscal

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years (1996, 1997, and 1998) as a base amount. This base amount of State spending must be maintained in future years. Incentive payments under this part must be used in addition to, and not in lieu of, the base amount.

(e) Requests for approval of expending incentives on activities not currently eligible for funding under the IV-D program, but which would benefit the IV-D program, must be submitted in accordance with instructions issued by the Commissioner of the Office of Child Support Enforcement.

§ 305.36 Incentive phase-in.

The incentive system under this part will be phased-in over a three-year period during which both the old system and the new system will be used to determine the amount a State will receive. For fiscal year 2000, a State will receive two-thirds of what it would have received under the incentive formula set forth in §304.12 of this chapter, and one-third of what it would receive under the formula set forth under this part. In fiscal year 2001, a State will receive one-third of what it would have received under the incentive formula set forth under §304.12 of this chapter and two-thirds of what it would receive under the formula under this part. In fiscal year 2002, the formula set forth under this part will be fully implemented and would be used to determine all incentive amounts.

§ 305.40 Penalty performance measures and levels.

(a) There are three performance measures for which States must achieve certain levels of performance in order to avoid being penalized for poor performance. These measures are the paternity establishment, support order establishment, and current collections measures set forth in §305.2 of this part. The levels the State must meet are:

(1) *The paternity establishment percentage* which is required under section 452(g) of the Act for penalty purposes. States have the option of using either the IV-D paternity establishment percentage or the statewide paternity establishment percentage defined in §305.2 of this part. Table 4 shows the level of performance at which a State